

REMARKS/ARGUMENTS

Claims 21-44 remain in the application. Claims 21, 31, 35-37, 40 and 44 are amended to overcome a rejection under 35 U.S.C. 112.

A. Rejections under 35 U.S.C. 112.

Claims 21-44 were rejected under 35 U.S.C. 112. The amendments to claims 21, 31, 35-37 and 40 eliminate the reference to a "wiring line layer" in favor of a "wiring layer", which is consistent with the remainder of the claims.

Claim 35 is amended to provide proper antecedent basis, and claim 44 is amended to improve grammar. These amendments are not intended to alter the scope of the claims, only to improve form.

Claims 32, 33, 35 and 38 are amended to eliminate the use of "substantially free" in favor of language that more literally tracks the terminology of the specification, and which is believed to improve definiteness.

Claim 40 is amended so that the claim more closely matches the wording of the specification. With respect to claim 44, the specification teaches at page 8, lines 6-16 that the sputtering/etch rates vary as a function of angle of incidence of the etching ions. Hence, the change in sputter/etch rate called for in claim 44 can be a result of the facet formation, for example, which changes the angle of incidence. It is believed that this element of claim 40 is supported by the specification.

B. Rejections under 35 U.S.C. 102.

Claim 35 was rejected under 35 U.S.C. 102 based upon Tobben et al. This rejection is respectfully traversed.

Claim 35 calls for, among other things, a method including etching the wiring line layer, at the locations where the cap layer is exposed by the patterned mask layer to form wiring lines separated by gaps without depositing contaminants from the mask layer in the gaps. At least this feature of claim 35 is not shown or suggested in the Tobben et al. reference.

Tobben et al. describes a process in which a metal layer is etched using RIE while a photoresist remains present. Accordingly, the photoresist can, under some circumstances, generate contaminants during the RIE that will likely be deposited in the gap. Accordingly, it is respectfully believed that claim 35 is allowable over Tobben et al.

C. Double patenting.

Claims 21-44 were rejected under the judicially created doctrine of obviousness-type double patenting over the claims of U.S. 6,117,345. This rejection is believed moot in view of the terminal disclaimer filed herewith.


D. Conclusion.

In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicants' attorney at the telephone number listed below.

Any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

April 26, 2004


Stuart T. Langley, Reg. No. 33,940
Hogan & Hartson LLP
One Tabor Center
1200 17th Street, Suite 1500
Denver, Colorado 80202
(720) 406-5335 Tel
(303) 899-7333 Fax